

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

**SNOOKY RILEY, and
JENNIFER DILALLO,**

Plaintiffs,

v.

Cause No. _____

**MARY SPANGLER, in her individual capacity;
JASON BACA, in his individual capacity;
CHRISTY VIGIL, in her individual capacity;
DENISE GONZALES, in her individual capacity;
VICTOR ALDAZ, in his individual capacity;
VINCENT VIGIL, in his individual capacity;
LEON MARTINEZ, in his individual capacity;
JOHN GAY, in his individual capacity;
ALISHA TAFOYA LUCERO, in her individual capacity;
STATE OF NEW MEXICO, and its subsidiary entities;
NEW MEXICO CORRECTIONS DEPT.; and
WESTERN NEW MEXICO CORRECTIONAL FACILITY,**

Defendants.

NOTICE OF REMOVAL

COME NOW Defendants Jason Baca, Christy Vigil, and Leon Martinez (“Certain State Defendants”) by and through their attorneys of record, Hinkle Shanor LLP (Stephen S. Shanor and Chelsea R. Green), and hereby file this Notice of Removal. In support of removal, Defendants would show the Court as follows:

1. On or about June 19, 2020, Plaintiffs, by and through their attorney of record, ACLU of New Mexico (Lalita Moskowitz and Leon Howard) and the Garret Law Firm (Taylor E. Smith), filed their *Complaint for Violation of Civil Rights* (“Complaint”), a copy of which is attached hereto as Exhibit “A”, along with other process, pleadings and/or orders served on Defendants.

2. On or about September 15, 2020, Counsel for Defendant accepted service on behalf of the Certain State Defendants. See relevant portions of e-mail chain attached hereto as Exhibit "B".

3. The action stated in Plaintiffs' *Complaint* is a civil action for which the United States District Court has original jurisdiction, due to the federal cause of action asserted therein. 28 U.S.C. §1331.

4. Specifically, in the *Complaint*, Plaintiffs have asserted a cause of action for constitutional violations of the First, Fourth, Eighth and Fourteenth Amendments against Defendants, which arise under the United States Constitution and 42 U.S.C. §1983. *See Exhibit "A".* In addition, Plaintiffs have requested attorneys' fees and punitive damages, which are not available under the New Mexico Tort Claims Act and can only arise under 42 U.S.C. § 1983 and 42 U.S.C. §1988 under the circumstances alleged in Plaintiffs' *Complaint*. Thus, this action is removable, pursuant to 28 U.S.C. §1441(a) and (c), which makes removable any civil action for which the district courts have original jurisdiction founded on a claim or right arising under the laws of the United States.

5. The Certain State Defendants were served through their counsel by agreement and authority on September 15, 2020 (See Exhibit "A"). Therefore, this Notice of Removal is timely filed, as it is within 30 days of Plaintiffs' service of a pleading upon a defendant which purports to assert relief under federal law, as set forth in Paragraph 3 above.

6. The time in which the removing Defendants are required to answer Plaintiffs' *Complaint* by the law of the State of New Mexico has not yet expired.

7. Venue is properly placed in the United States District Court for the District of New Mexico because it is the district court for the district within which the action is pending, in accordance with 28 U.S.C. §1446(a).

8. Written notice of the filing of this Notice of Removal will be given to Plaintiffs pursuant to 28 U.S.C. §1446(d) promptly after the filing of this Notice of Removal.

9. Pursuant to 28 U.S.C. §1446(d), a true and correct copy of the Notice of Removal will be filed with the Clerk of the District Court of Bernalillo County, State of New Mexico, promptly after filing in this Court.

WHEREFORE, the Defendants pray that this State Court action be removed from the Second Judicial District Court, County of Bernalillo, New Mexico, to this Court for trial and determination as provided by law.

Respectfully Submitted:

HINKLE SHANOR LLP

/s/ Stephen S. Shanor
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CERTIFICATE OF SERVICE

I hereby certify that on this September 25, 2020, I caused the foregoing NOTICE OF REMOVAL along with this Certificate of Service, to be served and filed electronically through the CM/ECF File & Serve electronic filing

system, which caused all parties or counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

HINKLE SHANOR LLP

/s/ Stephen S. Shanor